

Policies of Inclusion

Immigrants, Disease, Dependency, and American Immigration Policy at the Dawn and Dusk of the 20th Century

Amy L. Fairchild, PhD, MPH

The racial politics of immigration have punctuated national discussions about immigration at different periods in US history, particularly when concerns about losing an American way of life or American population have coincided with concerns about infectious diseases.

Nevertheless, the main theme running through American immigration policy is one of inclusion. The United States has historically been a nation reliant on immigrant labor and, accordingly, the most consequential public policies regarding immigration have responded to disease and its economic burdens by seeking to control the behavior of immigrants within our borders rather than excluding immigrants at our borders.

CARVED IN STONE IN A PILLAR

adorning the National Archives in Washington, DC, is a line from Shakespeare that has captured my imagination: “What is past is prologue.” Day after day I read this phrase as I entered the archives, reviewing the records of the US Public Health Service (PHS) relating to the immigrant medical inspection that was required at the nation’s borders beginning in 1891. Whether boxes and boxes of records impaired my judgment, whether I was swayed by its inexorable logic, or whether it simply felt true for the ways in which we have thought about the intersection of immigration and disease, I became a firm believer: “What is past is prologue.”

But the problem is that historians have provided us with multiple prologues, and this can trip us up when we try to make the past speak to the present. Despite widespread assumptions about the exclusionary nature of American immigration policy, the history of immigration at the beginning and end of the 20th century is in fact a history of inclusion.

The period 1924 to 1965 is set off by 2 landmark pieces of

legislation: the Immigration Act of 1924, which made national origin the basis for admission into the United States, and the Immigration Act of 1965,¹ which eliminated the national origins systems and at the peak of the Civil Rights Movement restored what President Lyndon Johnson called “the basic principle of American democracy.”² But in placing undue emphasis on the racially restrictive nature of policy between 1924 and 1965, it becomes too easy to view all policies—past and present—through a lens of exclusion.³

I had been led to explore the early history of medical inspection by a contemporary policy disaster that occurred while I was working in the Policy Unit of the New York State Department of Health’s AIDS Institute in the early 1990s. At that time, the US detention of some 200 Haitian immigrants infected with HIV at the naval base at Guantanamo Bay, Cuba, reached its climax. I found it very easy, using the Immigration Act of 1924 and histories of eugenics and scientific racism as a lens, to tell a story of racial restrictions masquerading as public health policy. It was a story, I argued, emblematic of

our larger immigration policy.⁴ Conversely, I was prepared to see the historical origins of immigrant medical inspection as the story of public health used for racial demarcation and exclusion. This interpretation is very much in keeping with how social historians have traditionally viewed the relationship between immigration and disease.⁵

In this article, I compare the broad intentions of US policy fundamentally concerned with managing the economic burden of disease in 2 periods: the Progressive Era, in which medical inspection sought to control the consequences of disease not by turning immigrants back but by introducing them to industrial values and expectations regarding work and dependency, and the current era of immigration and welfare reform. Although the racial politics of immigration have typically framed our understanding of Progressive Era policy, in discussing that period I consider the day-to-day practice of immigrant medical inspection and the ways it was shaped by industrial demands. For the present era, in which individuals certainly live within the constraints of both federal and state policy on a day-to-

day basis, I focus on the politics and policy at the broadest level, considering the provisions of the 1996 Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA, or Personal Responsibility Act), which excluded illegal and legal immigrants from many public benefits such as Medicaid.

There are, of course, important differences between the 2 eras: immigrants, particularly illegal immigrants, fuel the service industry and highly skilled immigrants fill the ranks of the information sector in the current era of globalization, whereas in the late 19th and early 20th centuries immigrants joined the unskilled industrial labor force. Likewise, the changing position and power of organized labor potentially gives different meaning to the notion of inclusion in the 2 different eras. Nonetheless, at both the dawn and dusk of the 20th century, I argue, the most consequential public policies responded to disease and its economic burdens by seeking to control the behavior of immigrants *within* our borders rather than excluding immigrants *at* our borders. That this theme of inclusion marks 2 such different eras underscores its enduring significance in American public policy.

INCLUSION AS BACKDROP: 1882 TO 1924

There coexisted in Progressive Era America 2 models—interconnected by questions of race and labor—of citizenship, one characterized by fitness for civic participation and the other by fitness for industrial participation. The political movement to restrict immigrants from southern and eastern Europe

prioritized questions of fitness for self-government and emphasized the inherent genetic and intellectual racial inferiority of the new immigrant streams.⁶ In the 1890s, Senator Henry Cabot Lodge and his Immigration Restriction League connected the literacy test with protection of American character and citizenship in the 1890s.⁷ The literacy test promised to restrict the entry of “beaten men from beaten races” with “none of the ideas and aptitudes” necessary for democratic self-rule.⁸

Critically, however, expansive notions of racial restriction stemming from civic concerns did not find their way into actual immigration legislation until well after the turn of the century.⁹ Even the literacy test—as it was finally passed in 1917 over President Woodrow Wilson’s veto—required only that immigrants be able to read in any language, including Hebrew and Yiddish. With its entry into the control of immigration in the 1880s, Congress remained legislatively focused on the immigrant as industrial participant, aligning itself with business and against labor and the nation’s proponents of scientific racism. It was a model of industrial fitness, then, that would shape US immigration policy during the Progressive Era.¹⁰

“At both the dawn and dusk of the 20th century, the most consequential public policies responded to disease and its economic burdens by seeking to control the behavior of immigrants within our borders rather than excluding immigrants at our borders. That this theme of inclusion marks 2 such different eras underscores its enduring significance in American public policy.”

Between the ends of the Civil War and World War I, the United States was transformed from a society of artisans, who largely controlled the pace of production, into the world’s leading industrial power. By the 1880s and 1890s, mechanization swelled the ranks of the unskilled labor force.¹¹ In the face of the changing nature of production and the changing composition of the work force, industry took advantage of an opportunity to assert control and authority. A new cadre of scientific and industrial managers undertook the tasks of redefining ability to work in terms of segmented tasks rather than supervision of a product from start to finish. By 1911, Fredrick Winslow Taylor’s *Principles of Scientific Management*, first published in the 1890s, profoundly shaped the way the nation thought about how to organize work efficiently. Industrial leaders saw scientific management as a process for removing “the manager’s brain” from “under the workman’s cap.”¹² While scientific racists were concerned with ensuring that the nation’s inhabitants remained “well born,” those concerned with the labor half of the equation insisted that this was not enough: the worker “must be trained

right as well as born right.”¹³ Industry, therefore, was interested in worker discipline.¹⁴

Dramatic changes in industrial production and management not only allowed the unprecedented expansion of American industry but also generated great economic fragility. The phenomenon of unemployment introduced a new dimension into defining and managing a necessarily fluid industrial workforce while at the same time providing a compelling rationale for disciplining those deemed destined to destitution. As workers increasingly located in urban areas and the labor supply swelled to accommodate the demands of a rapidly growing industrial power, hundreds of thousands of industrial workers became “utterly dependent upon their industrial earnings to survive.”¹⁵

But workers could not rely on industrial earnings. Many “minor” recessions and depressions accompanied the 6 “major” economic downturns that the nation experienced from 1870 to 1921.¹⁶ In this kind of work economy, sickness could mean the difference between survival and destitution.¹⁷ While most of the laboring class relied primarily on the resources of family and friends rather than public or private charity or relief organizations during lean times,¹⁸ illness, rather than the nature of the economy, was viewed as the “outstanding problem which led to dependency.”¹⁹ In this context, then, government in addition to industry had an interest in controlling the worker. Thus, when the federal government began to exercise its congressional authority over immigration in 1882,²⁰ it sought not to *restrict* immigration but rather to *control* it by preventing the entry of those

who could not support themselves as well as “convicts, lunatics, and idiots.”²¹

Control rather than restriction would characterize immigration policy for the next 4 decades. With the immigration law of 1891, the federal government created the machinery for federal officials to inspect and exclude immigrants. The law required medical officers of the PHS to issue a medical certificate to all immigrants suffering from a “loathsome or a dangerous contagious disease.”²² Loathsome and dangerous contagious diseases—also known as class A conditions—included trachoma (also known as granular conjunctivitis), an infectious eye condition that could lead to blindness; favus, a fungal infection of the scalp and nails; venereal diseases; parasitic infections; and tuberculosis.²³ A subset of class A conditions included mental conditions such as insanity, feeble-mindedness, imbecility, idiocy, and epilepsy.

In 1903, the PHS created a new category of class B diseases or conditions—those rendering the immigrant “likely to become a public charge.”²⁴ Class B conditions included hernia, valvular heart disease, pregnancy, poor physique, chronic rheumatism, nervous afflictions, malignant diseases, deformities, senility and debility, varicose veins, and poor eyesight.²⁵ But in the context of industrial-era America, not only class B conditions affecting ability to earn a living but also the loathsome and dangerous contagious diseases took on economic meaning in the hands of the PHS, which defined contagious immigrant diseases as “essentially chronic.” Chronic, debilitating disease represented the permanent inability of an immigrant to

function in society; it represented dependency.²⁶

At the core of the industrial economy were the dual principles of disciplining and discarding the laboring body. It was not simply the case that the worker bound for dependency had to be barred at the nation’s threshold; rather, at the nation’s threshold, *all* workers had to learn the rules and expectations of industrial society. Immigrant laborers had to understand that they were expected to remain fit throughout the inevitable spells of unemployment that they would be required to weather. The message was clear to Bridget Fitzgerald, who came from Ireland in 1921 at age 18: “You know what you needed then mostly? I’ll tell you. Strong and healthy, that you won’t become a public charge, because then, I mean, you go right back.”²⁷

While federal immigration law sent roughly 79 000 immigrants home for diseases or defects, it brought *all* 25 million arriving immigrants—particularly those traveling in steerage or third class who would join the ranks of laborers—under the scrutiny of the PHS.²⁸ The assembly line of flesh and bone developed to defend the nation from diseased immigrants served as the inaugural event in the life of the new labor force. Immigrant medical examination centered on the “line,” which became shorthand for techniques and procedures for quickly examining thousands of immigrants. In the context of immigrant medical inspection, it represented a direct and meaningful analogy to the industrial assembly line and is central to a story of inclusion.

Ellis Island, where roughly 70% of immigrants entered the United States, set the standard

for examination on the “line.” After an arriving ship passed the quarantine inspection in New York Harbor,²⁹ Immigration Service and PHS immigrant examiners boarded and examined all first- and second-class passengers. PHS officers transferred steerage or third-class passengers to Ellis Island by barge. Proceeding one after the other and lugging heavy baggage, prospective immigrants entered the often-congested immigration station and proceeded slowly through a series of gated passageways resembling cattle pens. The winding passage leading toward the PHS officers who waited at the end ensured that each could witness the inspection of dozens of immigrants ahead. As they reached the end of the line, immigrants slowly filed past one or more PHS officers who, at a glance, quickly surveyed them for a variety of serious and minor diseases and conditions, finally turning back their eyelids with their fingers or a button-hook to check for trachoma.³⁰ “Were they ready to enter? Or would they be sent back?” wondered each immigrant with faces “taut, eyes narrowed” throughout the process.³¹

Manny Steen, who immigrated from Ireland in 1925, kept the moment of entry at Ellis Island fresh in his memory for nearly 7 decades, describing it as “the worst memory I have of Ellis Island.” He remembered that “doctors were seated at a long table with a basin full of potassium chloride and you had to stand in front of them, follow me, and they’d ask you and you had to reveal yourself. . . . Right there in front of everyone! I mean, it wasn’t private.”³² His memory of the humiliating nature of the examination was shared by Enid



Photo courtesy of the National Park Service, US Department of Interior.

Women undergoing secondary medical examination at Ellis Island.

Griffiths Jones, inspected at Ellis Island in 1923 at age 10: “And we went to this big, like an open room, and there were a couple of doctors there, and then they tell you, ‘Strip.’ And my mother had never, ever undressed in front of us. In those days nobody ever would. She was so embarrassed. And it was all these other, all nationalities, all people there.”³³ Steen and Jones described not an examination but a public spectacle. Even the more intensive examination of the estimated 10% to 20% that the PHS “turned off the line” was also a public event,³⁴ as illustrated in photographs depicting the intensive examination of men and women at Ellis Island sometime after the turn of the century (photos this page and next).

Power, wrote Foucault, “must be spectacular, it must be seen by all almost as its triumph.” The

spectacle of inspection on “the line” represented a “ritual recoding” to be “repeated as often as possible.”³⁵ The inspections represented emersion in a particular, routinized, ordered set of exercises or motions—waiting in line, moving in unison, stepping up to the medical inspector, moving forward, stepping up to the immigrant inspector, answering questions. In this fashion, they were introduced to the repetitive, monotonous habits of industrial order. For 14-year-old Bessie Kriesberg, the process impressed upon her the imperative “to obey the rules.”³⁶ It was one of many reinforcing moments in the new immigrant’s life. Ellis Island was, in the words of Michael La Sorte, part of “a seamless continuity” that began overseas “and ended somewhere in America.”³⁷

Public health in the Progressive Era was, of course, not



Jewish immigrants undergoing the secondary medical examination at Ellis Island. As also reflected in the previous photograph, the secondary examination was conducted in a group setting in which immigrants witnessed the examination of others.

solely about inclusion or absorption of immigrants into the national workforce, as historians such as Howard Markel, Alan Kraut, and Nayan Shah have powerfully demonstrated.³⁸ In the case of the immigrant medical examination, when groups of immigrants failed to conform to societal expectations about the industrial worker, the examination worked to *exclude* those groups at the nation's borders on the understanding that they were not racially fit for industrial labor. Disease was instrumental in rationalizing these exclusions, and the medical examination served as a flexible tool to achieve higher exclusion rates in regions of the country receiving greater shares of "undesirable" immigrants. Consequently, immigrants faced considerable medical obstacles to entry and higher rates of medical certification and exclusion at the nation's Pacific

Coast and Mexican border immigration stations.³⁹ Nonetheless, given the industrial context, the terms of inclusion must provide a backdrop to such exclusionary endeavors.

EXCLUSION AS BACKDROP: 1924 TO 1965

The backdrop does, however, change in 1924 with the national origins quota system, which was explicitly racially exclusive. The Immigration Act of 1924 capped immigration at 150 000 per year and restricted immigration to 2% of the population of each "race" recorded in the US census of 1890, representing a deliberate attempt to dramatically limit immigration from southern and eastern Europe.⁴⁰ A very vocal segment of the nation's political and intellectual elite viewed the legislation as an important means

to stem a threatening tide of physically, genetically, and intellectually inferior southern and eastern European immigration.

The threat of "inferior races" and disease informed some of the most exclusionary policies from 1924 to 1965. Emily Abel, for example, describes how the fears of contagion and dependency enabled public health officials to use tuberculosis as a tool for repatriating Mexican immigrants and citizens in the West. As Abel convincingly argues, a growing consensus regarding Mexicans' lack of entitlement to US citizenship made health officials emphasize the economic consequences of tuberculosis as a chronic disease.⁴¹ Although Herbert Hoover's policy of repatriation (ostensibly voluntary, but often viewed by immigrants as mandatory) was abandoned under Franklin Delano Roosevelt, Roger Daniels explains that "there was nothing even approaching a New Deal for immigration." Indeed, under Roosevelt, racial exclusions were extended to Filipinos in 1934.⁴²

US refugee policy during World War II—or rather the absence of formal policy, epitomized in 1939 when the United States turned back the *St. Louis*, most of whose 933 passengers were Jewish refugees—stands as the greatest testament to the exclusionary practices of the United States after 1924. But even if woefully inadequate, informal presidential directives resulted in some quarter of a million refugees reaching the United States during and after the war.⁴³ That some effort was made to expand America's immigration policy during World War II underscores the fact that just as the Progressive Era was not characterized entirely by inclusion, nei-

ther was the period from 1924 to 1965 characterized entirely by exclusion.

Many have cited the Immigration Act of 1965 as abruptly ending the exclusionary era, fundamentally altering the face of immigration, and, indeed, causing a near-catastrophic rise in immigration.⁴⁴ No doubt the Immigration Act contributed to the rising tide of immigration and its increasing proportion of Asians and Latin Americans, but it was actually the 1924 restriction legislation that ushered in the profound, though unintended, changes in the sources of immigration.⁴⁵ As Daniels explains, the relatives of immigrants already in the United States and immigrants from Latin America and Canada were not subject to the numerical limitation under the quota law; immigration in these categories increased from about 10% of total immigration in the period before World War I to approximately 45% of immigration by 1930, considerably altering immigration patterns.⁴⁶ Figure 1 shows that the sources of immigration began to shift after the turn of the century, with the proportion of Europeans steadily declining after 1900.⁴⁷ Figure 2 further shows that while immigration fell off dramatically after 1924, it quickly began a steady increase, which was disrupted by depression in 1929 and war in 1940 (we see a similar pattern following World War I). By 1947, immigration resumed at a level we would have expected had there been no depression or war.

It was this dip in immigration during World War II that helped to create severe labor shortages and that prompted the United States to ease restrictive immigration policy, chiefly admitting

Mexican and Chinese laborers. The Displaced Persons Act of 1948 created a national refugee policy, resulting in the admission of some 400 000 persons by 1952. Subsequently, the Refugee Act of 1953 allotted an additional 214 000 nonquota visas; it sought primarily to protect, in true Cold War spirit, those seeking to escape communism, but it also extended admission to Asian and Middle Eastern immigrants.⁴⁸

America's increasingly permissive stance on immigration was not limited to refugees. 1952 also saw the passage of the McCarran–Walter Act, which, in repealing previous immigration laws, not only expanded the classes of aliens subject to exclusion and deportation and made it easier to accomplish both, but it also reduced barriers to skilled immigration and family reunification and ended the policy of Asian exclusion. The McCarran–Walter Act was, to be sure, not intended as a liberal measure to increase immigration to the United States. The backdrop to this legislation was most decidedly exclusion: Patrick McCarran sponsored the Internal Security Act of 1950 that prohibited the immigration of communists and fascists. The bill ultimately retained the national origins system, but, as Robert Divine has observed, as “an act of conservatism rather than intolerance.”⁴⁹ A vast amount of immigration fell outside of the quota and nearly 3.5 million immigrants—many of them Asian—subsequently entered.

Just as the doors to the nation did not decisively slam shut in 1924, neither did they dramatically swing open in 1965. Rather, the period from 1924 through 1965 represented

“The inspections represented emersion in a particular, routinized, ordered set of exercises or motions—waiting in line, moving in unison, stepping up to the medical inspector, moving forward, stepping up to the immigrant inspector, answering questions.”

decades of gradual intended and unintended change in response to immigration legislation that at some moments sought even tighter restrictions on the basis of race but at others pursued more tolerant policies when the economy and humanitarianism demanded them.

INCLUSION AS BACKDROP, EXCLUSION AS VEIL: WELFARE AND IMMIGRATION REFORM IN THE 1990S

It is the centrality that questions of disease and dependency would once again take in the 1990s, and how the nation would respond to them legislatively, that enables us to draw an analogy between the opening and closing decades of the 20th century. The AIDS crisis raised deep concerns that immigrants with HIV would swell the Medicaid rolls, causing a collapse of our hospital and medical systems. These were the concerns that made Guantanamo Bay possible and that fostered a broader immigration policy banning the immigration of individuals with HIV.

The new restrictions on HIV and immigration were part and parcel of a growing concern regarding the economic burden

that immigrants placed on society. While in 1986 the Immigration Reform and Control Act legalized an unprecedented 2.7 million illegal immigrants living in the United States,⁵⁰ the Immigration Act of 1990 attempted to reverse the flow of immigrants who might not be self-sufficient, raising the nation's immigration ceiling by providing an unlimited number of visas to relatives of US citizens but reducing the allocation of visas for unskilled immigrants and raising the total visa quota.⁵¹

But it was not immigration policy that most clearly expressed the new concerns regarding disease and dependency; it was welfare policy. The most sweeping policy measure affecting immigrants and welfare was the Personal Responsibility Act of 1996—a policy currently undergoing reauthorization. One of the distinguishing features of the initial legislation was its withdrawal of many public benefits from legal immigrants and “undeserving” citizens. With some exceptions, the law barred immigrants from receiving Supplemental Security Income and food stamps until they became citizens.⁵² Immigrants could not receive cash assistance,⁵³ Medicaid, Social Services Block Grant services, and other federal means-tested

programs for 5 years after arrival.⁵⁴ The law barred illegal immigrants from all but a few selected in-kind, noncash services typically involving emergency care or vaccination.⁵⁵ The income and financial resources of an immigrant's sponsor—typically a family member who had to be a citizen or lawful permanent resident—were “deemed” available to any immigrant applying for benefits.⁵⁶

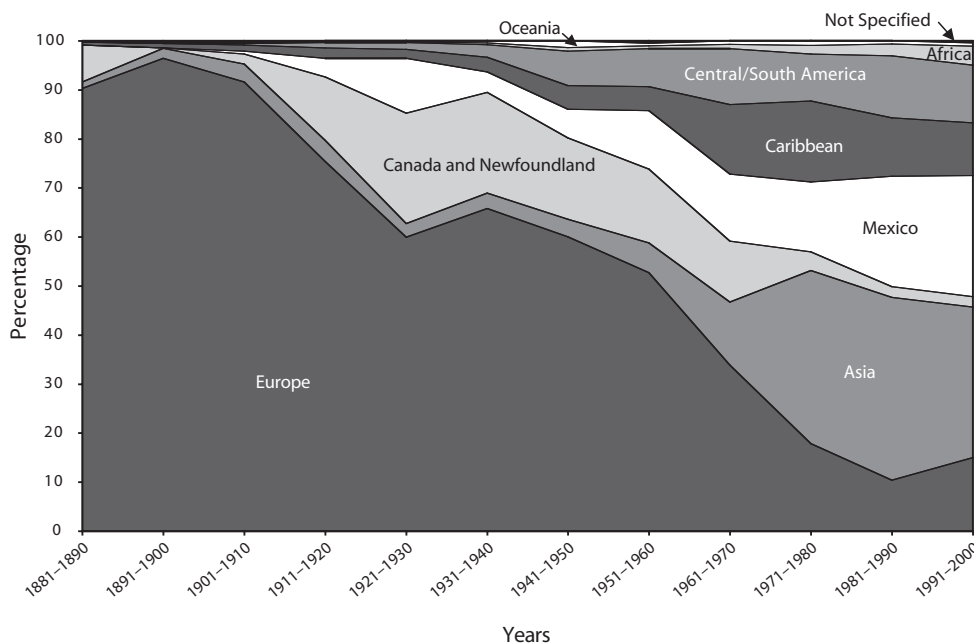
Welfare reform's provisions regarding immigrants resonated with the exclusionary leitmotif running through 20th-century immigrant policy. The 1996 Personal Responsibility Act as passed promised some \$54.1 billion in savings over 6 years, with \$23.8 billion (44%) to be achieved primarily at the expense of immigrants, both legal and illegal.⁵⁷ Because immigrants are more likely to engage in em-

ployment that carries no health benefits,⁵⁸ it was conceivable that welfare reform would provide a strong disincentive to legal and illegal immigration. Welfare reform's clear ties to California's Proposition 187—which passed with nearly 60% of the vote in 1994 and denied a variety of public services, including public education, to illegal immigrants—underscored the extent to which it was initially viewed as an exclusionary immigration measure.⁵⁹ Bob Dole, for instance, the 1996 Republican presidential candidate, reasoned that “if kids can't go to school, the parents will go home.”⁶⁰

In part, an enormous Hispanic voter backlash would cause Republicans gradually to alter their rhetoric and pitch welfare reform not as an immigration control measure but rather as sound social policy.⁶¹ The rhetorical

about-face, however, was not purely strategic. Welfare reform was motivated by complex and deeply rooted sentiments in the United States regarding humanitarianism and its limits, order and discipline, enforcing an “ideal” family structure, citizenship and its entitlements and obligations, and the labor market.⁶² Senator Bob Bennett of Utah stated that the issue for children was to create conditions “so [they] can learn and be productive citizens.” Senator Daniel Patrick Moynihan, who ultimately proved a strong opponent of the bill, also saw the *potential* for welfare reform to send a message about the expectations of citizens: “We expect of you what we expect of ourselves and our own loved ones: that you will do your share in taking responsibility for your life and the lives of the children you bring into the world.”⁶³ The themes of citizenship, discipline, and family were not intended to resonate only for immigrants but for all of the working class.

The theme of promoting discipline within and regulation of the labor market was reflected not only in welfare policy but also in immigration policy, although exclusion remained a key contrapuntal element marking the debates. The US House of Representatives, in an amendment to the immigration reform bill that sought to increase the number of Border Patrol officers, increase workplace immigration inspections, and restrict food stamps to immigrants,⁶⁴ voted in March 1996 to deny public education benefits to illegal immigrant children.⁶⁵ Speaker of the House Newt Gingrich argued that “There is no question that offering free taxpayer goods to illegals attracts more illegals.” He



Source. 2000 Statistical Yearbook of the Immigration and Naturalization Service. Available at <http://uscis.gov/graphics/shared/aboutus/statistics/imm00yrbk/imm2000list.htm>. Accessed February 25, 2004.

FIGURE 1—Immigration by region, expressed as a percentage of total immigration, 1891 through 2000.

concluded: “It is wrong for us to be the welfare capital of the world.”⁶⁶ Although the bill carried the strong support of Bob Dole,⁶⁷ incumbent President Bill Clinton threatened to veto the measure. Subsequently, the Senate, with the backing of conservative Texas Senators Phil Gramm and Kay Bailey Hutchison, successfully blocked the amendment.⁶⁸

Clinton signed the immigration reform bill on September 30, 1996, without measures denying either public education to illegal immigrants or federal treatment funds to legal immigrants infected with HIV/AIDS. Also missing were provisions to deport legal immigrants who received more than a year’s worth of federal benefits within a 7-year period.⁶⁹ While the immigration reform bill remained “one of the most sweeping efforts by Congress in years to control illegal immigration,”⁷⁰ also absent from the final legislation were provisions to reduce legal immigration by 30%, as the Immigration Reform Commission had urged, and provisions to increase substantially the number of Department of Labor workplace inspectors to investigate and penalize employers for hiring illegal immigrants.⁷¹ In refusing to limit immigration or create disincentives for businesses to hire illegal immigrants, the legislation thus made a powerful statement about the centrality of the contributions of both legal and illegal immigrants to the US economy.⁷² Coming on the heels of the Personal Responsibility Act, which dramatically limited the social obligations of the nation to these immigrants, it clearly defined the terms of inclusion: immigrants entered a social contract in which they must make economic contributions but

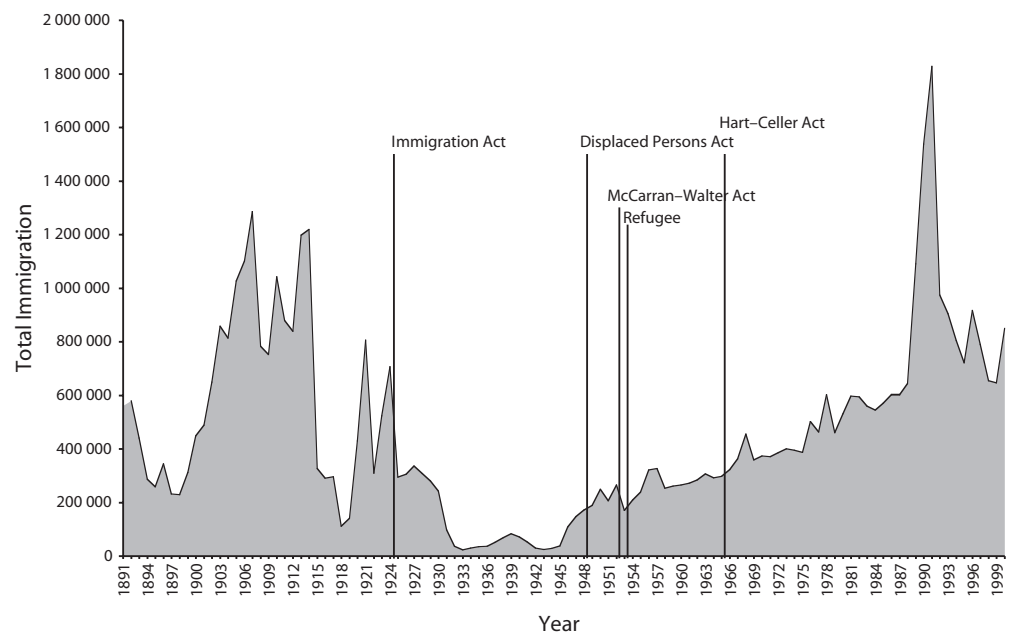
in which the nation had no reciprocal obligations.⁷³

CONCLUSION: TERMS OF INCLUSION

Just as it would be a mistake to deny the exclusionary elements of public policy touching immigrants during the Progressive Era or the countervailing currents of immigration policy in the restrictive decades between 1924 and 1965, it would also be foolhardy to ignore or minimize these elements of recent policy.⁷⁴ HIV exclusion has dropped out of public discussion, but the events of September 11, 2001, have reinvigorated the metaphors and language of disease—infections, terrorist cells, eradication—and renewed interest in exclusion. The advent of Sudden Acute Respiratory Syndrome (SARS) no doubt will re-

inforce such interest. We find ourselves poised on the border between greater inclusion and further restriction.⁷⁵ In the period since the September 11th attacks, Congress has passed measures tightening control of the borders and intensifying the scrutiny and surveillance of immigrants.⁷⁶ In March 2002, both the House and Senate overwhelmingly passed legislation to increase the number of immigration investigators and inspectors and to establish a surveillance system for people entering with student visas. President Bush has signed “modern,” “smart border” agreements with Canada and Mexico aimed at further limiting the flow of illegal immigrants, drugs, and terrorists, without slowing the flow of goods.⁷⁷

In this context, it would be easy to draw analogies to the anti-immigration rhetoric that surfaced



Source. 2000 Statistical Yearbook of the Immigration and Naturalization Service. Available at <http://uscis.gov/graphics/shared/aboutus/statistics/imm00yrbk/imm2000list.htm>. Accessed February 25, 2004.

FIGURE 2—Total immigration to the United States, 1891 through 1999.

in the mid-1990s.⁷⁸ But emerging debates and even policies in the aftermath of 9/11 are not likely easily to derail the broader inclusionary impulses characterizing American immigration policy in the current period. Thus, while one interpretation of the welfare and immigration reform measures is that it sends the message “Non-Yankees Go Home,”⁷⁹ we have to look through this veil at the larger backdrop.

In March 2002, the US House of Representatives, in support of negotiations between the Bush administration and Mexico’s President Vicente Fox, approved a measure to make it easier for illegal immigrants to gain legal status in the United States.⁸⁰ After encountering opposition from Democratic Senator Robert Byrd, the measure was excluded from May’s reconciliation legislation, which hardened immigration enforcement laws. Despite this setback, the proposal had carried broad bipartisan support in both the House and Senate. It also enjoyed wide community and business support.⁸¹ Indeed, Democratic Senate Majority Leader Tom Daschle reintroduced the measure on May 9, 2002.⁸² Most recently, President Bush put forward a guest-worker proposal that would allow illegal immigrants to obtain renewable 3-year work permits that many critics have derided as exploitative.⁸³

It is important, then, to appreciate the exact terms of inclusion as well as the extent of support behind inclusion, which includes not only Republicans, Democrats, and employers—who may or may not have a stake in improving the terms of inclusion for immigrants—but also organized labor.

The AFL-CIO, in February 2000, began to urge the legal-

ization and unionization of illegal Mexican immigrants, representing a dramatic shift in a policy position forged during the Progressive Era.⁸⁴ At the beginning of the century, unions saw the new immigrant laborer as living outside the craftsman’s ethic of collective behavior; as a contemporary labor lyric put it, “There were no men invited such as Slavs and ‘Tally Annes,’/ Hungarians and Chinamen with pigtail cues and fans.”⁸⁵ This “dangerous class” of unskilled labor was perceived as “inadequately fed, clothed, and housed” and, accordingly, it “threatened the health of the community.”⁸⁶ This was a period, after all, in which labor struggled not only to organize but to organize against incredible odds: beginning in the 1880s, corporations gained recognition as “persons” sharing in constitutional rights in a context in which the courts increasingly reduced the rights of citizenship to “unfettered liberty of contract.” The courts consistently ruled that regulation of wages and work conditions represented a fetter on this liberty. Conversely, the courts consistently prohibited labor boycotts and strikes.⁸⁷

The change in the position of organized labor was a reaction to its stagnating membership levels and a political economy that had changed dramatically since the dawn of the 20th century.⁸⁸ Although it was decidedly weak early in the century, during and after World War II the power of unions was considerably strengthened and by century’s end the national AFL-CIO membership of some 16 million had been relatively stable for decades.⁸⁹ But immigrants potentially promise increased power and position for

organized labor. California’s local unions, drawing on a large and largely illegal immigrant labor force, added some 132 000 members in 1999.⁹⁰ Thus, the 17.7 million immigrants in the United States⁹¹—perhaps 7 million of them illegal—have provided a powerful incentive for a switch in organized labor’s long-held positions.⁹²

Characterized by the North American Free Trade Agreement, which was strongly opposed by organized labor,⁹³ globalization also brought into question the terms of employment not only in this nation but also in the less-developed nations where business might locate or relocate production.⁹⁴ In this global context, while immigration policy can shape whether the nation has an information economy versus a labor or service-sector economy, as well as the distribution of wealth within it,⁹⁵ exclusion no longer represents a viable alternative for controlling labor conditions or opportunities within the nation, as it might have earlier in the century, when the United States was the leading industrial producer and American business thrived on a large, highly mobile, and responsive unskilled labor force.

But while the new position of labor offers hope for altering the terms of inclusion—a hope not possible early in the 20th century—the trajectory of welfare reform must give us pause. In the summer of 2002, the House passed a version of a reauthorization bill, still excluding immigrants,⁹⁶ that increased work requirements from 20 to 40 hours per week with no exemptions for women with children aged younger than 6 years.⁹⁷ House Republicans argued—and some Democrats

agreed—that the PRWORA was a stunning success, dramatically reducing the welfare caseloads despite rising immigration and unemployment.⁹⁸

Absent was any suggestion that increasingly strict requirements provided disincentives to immigration: legislators viewed welfare reform as a means of creating and training productive citizens. Mark Foley, a Republican representative from Florida, argued, “My grandmother came from Poland, she was a maid at the Travel Lodge Motel, she worked hard all her life. All she wanted to be is a good citizen and an honest, God-fearing person of this country.” He saw the bill as “preparing our citizens” and would-be citizens “for the future of this country and its economy.”⁹⁹ It was not simply that if a lifetime of menial, low-wage work was good enough for Foley’s grandmother, then certainly it was good enough for today’s immigrants—it was good for today’s workers regardless of their immigration status. President Bush has begun touting welfare reform as ending “the culture of dependency that welfare” had created for people who should properly be thought of as “citizens of this country, with abilities and aspirations” and not “charges of the state.”¹⁰⁰ Given that the Senate is now controlled by Republicans, the House reauthorization seems likely to pass sometime in 2004.¹⁰¹

Thus, as important as it will be in this era to remain alert to the nation’s policies of exclusion, particularly when they turn on questions of race or nationality, a focus on exclusion at the borders can obscure a critical analysis of the terms of inclusion that we set not only for immigrants but for all workers. How the nation sets

those terms, and the extent to which they reflect either suspicion and distrust of immigrants as a potential burden or a recognition of mutual obligations between workers and society, will differ as the economic base of the nation changes, as the position and power of organized labor alters, and, of course, as the sources and levels of immigrant shift. As we make decisions about immigration, we must view immigration reform along with welfare reform as being fundamentally concerned with engineering the economic structure of American society, as being fundamentally about the nature of inclusion. This is a prologue that does not deny the exclusionary impulses within American immigration history and policy, but that can refocus our attention in the present. ■

About the Author

The author is with the Center for the History and Ethics of Public Health, Department of Sociomedical Sciences, Mailman School of Public Health, Columbia University, New York, NY.

Requests for reprints should be sent to Amy Fairchild, PhD, MPH, Mailman School of Public Health, Columbia University, 722 W 168th St, 9th Floor, New York, NY 10032 (e-mail: alf4@columbia.edu).

This article was accepted May 20, 2003.

Acknowledgments

This work was originally supported by dissertation grants from the National Endowment for the Humanities and the National Science Foundation.

The author thanks Gerard Carrino, David Rosner, and Ronald Bayer as well as the anonymous reviewers for their close readings and helpful comments.

Endnotes

1. While the national origins system was eliminated, the use of quotas continued. Total hemispheric quotas capped at 290 000 per year. In 1976, hemispheric caps were abandoned and each country was allotted a quota of 20 000,

and the Refugee Act of 1980 excluded refugees from the preference system. Roger Daniels, "Two Cheers for Immigration," in *Debating American Immigration, 1882–Present*, ed. Roger Daniels and Otis L. Graham (New York: Rowman & Littlefield Publishers Inc, 2001), 37, 41, 78.

2. Quoted in Daniels, "Two Cheers for Immigration," 43.

3. Rudolph J. Vecoli, "Ethnicity: A Neglected Dimension of American History," in *The State of American History*, ed. Herbert J. Bass (Chicago: Quadrangle Books, 1970), 73.

4. Amy L. Fairchild and Eileen A. Tynan, "Policies of Containment: Immigration in the Era of AIDS," *American Journal of Public Health* 84 (1994): 2011–2022.

5. Howard Markel, *Quarantine! East European Jewish Immigrants and the New York City Epidemics of 1892* (Baltimore: Johns Hopkins University Press, 1997); Matthew Frye Jacobson, *Whiteness of a Different Color: European Immigrants and the Alchemy of Race* (Cambridge, Mass: Harvard University Press); Alan M. Kraut, *Silent Travelers: Germs, Genes, and the Immigrant Menace* (New York: Basic Books, 1994); Kenneth Ludmerer, *Genetics and American Society: A Historical Appraisal* (Baltimore: Johns Hopkins University Press, 1972).

6. It was such a notion of political citizenship that in part motivated Chinese exclusion in 1882. Congress deemed the Chinese unfit for democratic self-rule and barred the Chinese not only from entry into the United States but also from naturalization. The 14th Amendment, ratified in 1868, made citizenship and equal protection under the law a constitutional birthright. The Naturalization Law of 1870 subsequently affirmed the right of persons of African descent to naturalization and their right to vote. But it also denied citizenship to first-generation Asian immigrants. Eric Foner, *The Story of American Freedom* (New York: W. W. Norton & Company, 1998), 112. The Immigration Act of 1917 and subsequent Supreme Court decisions in *Ozawa v the United States* (1922) and *The United States v Thind* (1923) reaffirmed such exclusion on the grounds that Asians were not "White." See also Ian F. Haney-Lopez, *White by Law: The Legal Construction of Race* (New York: New York University Press, 1996).

7. John Higham, *Strangers in the Land: Patterns of American Nativism, 1860–1925* (New Brunswick, NJ: Rutgers University Press, 1994), 103.

8. Francis A. Walker, "Restriction of Immigration," *Atlantic Monthly*, June 1896, p. 828.

9. Higham, *Strangers in the Land*, 43–44, 48–49, 73, 99–100, 112, 129–130, 202, 203–204, 221.

10. Likewise, the movement for Chinese exclusion was not rooted exclusively in questions of fitness to participate in American public life. Congress—in rare concordance with organized labor, which saw Chinese workers as severely depressing White wages—responded to a perceived threat that the Chinese posed to industrial civilization. Gwendolyn Mink, *Old Labor and New Immigrants in American Political Development: Union, Party, and State, 1875–1920* (Ithaca, NY: Cornell University Press, 1986), 90–91, 96; Alexander Saxton, *The Indispensable Enemy: Labor and the Anti-Chinese Movement in California* (Berkeley: University of California Press, 1971). The 1882 Exclusion Act did not bar the entry of all Chinese immigrants; it targeted laborers only.

11. David Montgomery, *The Fall of the House of Labor: The Workplace, the State, and American Labor Activism, 1865–1925* (Paris: Cambridge University Press, 1987), 24, 25.

12. William D. Haywood and Frank Bohn, *Industrial Socialism* (Chicago, n.d.), 25, quoted in Montgomery, *Fall of the House of Labor*, 45.

13. Fredrick Winslow Taylor, *Principles of Scientific Management* (Norcross, Ga: Engineering and Managing Press, 1911), viii–xi, 50.

14. Montgomery, *Fall of the House of Labor*, 252.

15. Alexander Keyssar, *Out of Work: The First Century of Unemployment in Massachusetts* (Cambridge, England: Cambridge University Press, 1986), 25.

16. During these years, the economy faltered 13 times, meaning that each decade brought 4 years of depression or recession. Keyssar, *Out of Work*, 47.

17. Unemployment Committee of the National Federation of Settlements, *Case Studies of Unemployment* (Philadelphia: University of Pennsylvania Press, 1931), 71.

18. Elizabeth Cohen, *Making a New Deal: Industrial Workers in Chicago, 1919–1939* (Cambridge, England: Cambridge University Press, 1990), 57.

19. *Commissioner-General's Annual Report* (Washington, DC: Government Printing Office, 1898), 2. See also memorandum abstracting information in "The Alien as Charity Seeker," Children's Bureau, US Department of Labor, Vol. IV, No. 29, October 1927; "Aliens and Charity," Immigration History Research Center, University of Minnesota, St. Paul; US Senate, *Reports of the Immigration Commission, Abstracts of*

Reports of the Immigration Commission, Abstract of the Report on Immigrants as Charity Seekers, Vol. 2.

20. The Supreme Court had ruled in 1849 that control of immigration, as a matter of "foreign commerce," fell within the authority of Congress, but the Immigration Act of 1882 is generally regarded as the first federal effort to assert its authority. Higham, *Strangers in the Land*, 356, note 19; Benjamin Klebaner, "State and Local Immigration Regulation in the United States Before 1882," *International Review of Social History* 3 (1958): 269–295.

21. Higham, *Strangers in the Land*, 43–44; John Higham, "Origins of Immigration Restriction, 1882–1897: A Social Analysis," *Mississippi Valley Historical Review* 39 (June 1952): 79–80.

22. The Public Health Service (PHS) was created in 1798 as the United States Marine Hospital Service under the jurisdiction of the Treasury Department, where it remained until 1939. Its initial function was to provide medical care to merchant marines. Although I refer to it consistently as the PHS here, it was renamed several times and was not known as such until 1912. Ralph Chester Williams, MD, *The United States Public Health Service, 1798–1950* (Washington, DC: Government Printing Office, 1951). Officers of the Immigration Service made the final decisions regarding whether immigrants would be deported for disease, although deportation of immigrants with class A diseases was mandatory. Although I refer to it as the Immigration Service, it, too, was renamed and reorganized several times throughout its history. Darrel H. Smith, *The Bureau of Immigration* (Baltimore: Johns Hopkins Press, 1926); Darrel H. Smith, *The Bureau of Naturalization* (Baltimore: Johns Hopkins Press, 1926).

23. Barbara Bates, *Bargaining for Life: A Social History of Tuberculosis, 1876–1938* (Philadelphia: University of Pennsylvania Press, 1992), 16–18; Sheila M. Rothman, *Living in the Shadow of Death: Tuberculosis and the Social Experience of Illness in American History* (New York: Basic Books, 1994), 13–15.

24. Bureau of Public Health and Marine-Hospital Service, *Book of Instructions for the Medical Inspection of Immigrants* (Washington, DC: Government Printing Office, 1903), 5, 10–11.

25. Amy L. Fairchild, *Science at the Borders: Immigrant Medical Inspection and the Making of the Modern Industrial Labor Force* (Baltimore: Johns Hopkins University Press, 2003), 32.

26. Fairchild, *Science at the Borders*, 14.

27. Joan Morrison and Charlotte Fox Zabusky, *American Mosaic: The Immi-*

grant *Experience in the Words of Those Who Lived It* (New York: E. P. Dutton, 1980), 42. As an employee, she described herself as "a 'useful girl.'"

28. On average, 4.4% of all immigrants were certified annually from 1909 to 1930, peaking at more than 8.0% in 1918 and 1919, although only about 11% were ever deported. The medical deportation rate for medical causes never exceeded 1%. Fairchild, *Science at the Borders*, 4–5. The immigrant medical inspection was designed for processing third-class or steerage passengers. Although an officer might occasionally send a first-class passenger for closer examination, he searched primarily not for physical but for social aberration: "If a passenger is seen in the first cabin, but his appearance stamps him as belonging in the steerage or second cabin, his examination usually follows." Letter from Assistant Surgeon General H.D. Geddings to Surgeon General, November 16, 1906, RG90, Central File, 1897 to 1923, Box 36, File No. 219, National Archives and Records Administration, College Park, Md.

29. A.H. Doty, "The Use of the Clinical Thermometer as an Aid in Quarantine Inspection," *Medical Record*, 1 November 1902, p. 690; A.H. Doty, "Modification of Present Port Inspection," *American Public Health Association Reports* 21 (1906): 260.

30. Letter from Assistant Surgeon General H.D. Geddings to the Surgeon General, November 16, 1923, RG90, Central File, 1897 to 1923, Box 36, File No. 219, National Archives and Records Administration, College Park, Md; E.H. Mullan, "The Medical Inspection of Immigrants at Ellis Island," *Medical Record*, 27 December 1913, p. 1168.

31. Quoted in Irving Howe, *World of Our Fathers* (New York: Galahad Books, 1976), 43.

32. Paul Sigrist, interview with Manny Steen, March 22, 1991, Ellis Island Oral History Project.

33. Janet Levine, interview with Enid Griffiths Jones, April 18, 1993, Ellis Island Oral History Project.

34. There is no precise data to support this estimate. Allan Kraut cites this figure, which appears sporadically in the PHS records. No doubt, during some of the peak immigration years before the war, a far smaller percentage was turned off the line; likewise, during the war, when immigration levels were very low and the PHS experimented with the utility of conducting a more intensive medical examination, the percentage was higher.

35. Michel Foucault, *Discipline and*

Punish: The Birth of the Prison (New York: Vintage Books, 1979), 34, 111.

36. Bessie Kriesberg, Hard Soil, *Tough Roots: An Immigrant Woman's Story* (Jericho, NY: Exposition Press Inc, 1973), 138, 139.

37. Michael La Sorte, *La Merica: Images of Italian Greenhorn Experience* (Philadelphia: Temple University Press, 1985), 48.

38. Markel, *Quarantine*; Kraut, *Silent Travelers*; Nayah Shah, *Contagious Divides: Epidemics and Race in San Francisco's Chinatown* (Berkeley: University of California Press, 2001); Emily Abel, "From Exclusion to Expulsion: Mexicans and Tuberculosis in Los Angeles, 1914–1940," *Bulletin of the History of Medicine* 77 (Winter 2003): 823–849.

39. Fairchild, *Science at the Borders*, chap 4. See also Shah, *Contagious Divides*, and Abel, "From Exclusion to Expulsion."

40. Robert A. Divine, *American Immigration Policy, 1924–1952* (New York: Da Capo Press, 1957, 1972); Mae Ngai, "The Architecture of Race in American Immigration Law: A Reexamination of the Immigration Act of 1924," *Journal of American History* 86 (June 1999), available at <http://www.historycooperative.org/journals/jah/86.1/ngai.html>, accessed January 16, 2004.

41. Abel, "From Exclusion to Expulsion"; Ngai, "The Architecture of Race."

42. Daniels, "Two Cheers for Immigration," 26–27; Benicio Catapusan, "Filipino Immigrants and Public Relief in the United States," *Sociology and Social Research* 23 (1939): 546–554; Ronald Takaki, *Strangers From a Different Shore: A History of Asian Americans* (New York: Penguin Books, 1989).

43. Daniels, "Two Cheers for Immigration," 26–27, 30.

44. Peter Brimelow, *Alien Nation: Common Sense About America's Immigration Disaster* (New York: Random House, 1995); Roy Beck, *The Case Against Immigration: The Moral, Economic, Social, and Environmental Reasons for Reducing US Immigration Back to Traditional Levels* (New York: W.W. Norton & Company, 1996), 69–70.

45. Divine, *American Immigration Policy*, 167.

46. Daniels, "Two Cheers for Immigration," 24–29; Kitty Calavita, "US Immigration Policymaking: Contradictions, Myths, and Backlash," in *Regulation of Immigration: International Experiences*, ed. Anita Bocker, Kees Groenendijk, Tetty Havinga, and Paul Minderhoud (Amsterdam: Het Sphinhuis Publishers, 1998), 141.

47. See also Christopher Jencks, "Who

Should Get In? Part II," *New York Review of Books*, 20 December 2001, available at www.nybooks.com/articles/14942, accessed April 18, 2002.

48. Daniels, "Two Cheers for Immigration," 29–35, 38; E.P. Hutchinson, *Legislative History of American Immigration Policy 1798–1965* (Philadelphia: University of Pennsylvania Press, 1981), 264–265.

49. Divine, *American Immigration Policy*, 161, 164–176, 190; Hutchinson, *Legislative History*, 297–312.

50. Diane Lindquist, "In Search of Amnesty; Call to Legalize Workers Gives Mexicans Hope," *San Diego Union-Tribune*, 29 May 2000, p. 1; Robin Gerber, "Labor's Welcome Change of Course on Immigration," *Baltimore Sun*, 29 February 2000, p. 23.

51. Nancy Foner, *From Ellis Island to JFK: New York's Two Great Waves of Immigration* (New Haven, Conn: Yale University Press and Russell Sage Foundation, 2000), 11, 249 (note 73); National Research Council, *The New Americans: Economic, Demographic, and Fiscal Effects of Immigration* (Washington, DC: National Academy Press, 1997), 29. In the late 1990s, Congress authorized the Immigration and Naturalization Service to issue more temporary visas to highly skilled workers.

52. In 1997, Congress restored Supplemental Security Income eligibility to immigrants residing in the United States before welfare reform was passed; Balanced Budget Act of 1997, P.L. 105–33. In 1998 and 2000, food stamp benefits were restored to some immigrants, their children, the disabled, and the elderly; William E. Gibson, "Immigrants to US Discover Welcome Mat Is Out," *Seattle Times*, 5 September 1999, p. 9.

53. Exceptions to cash assistance included programs such as the National School Lunch Act, Head Start, and emergency medical assistance. The Temporary Assistance for Needy Families Block Grant (TANF) replaced Aid to Families With Dependent Children (AFDC). States may provide cash assistance under TANF, but they can provide vouchers or services in lieu of cash.

54. States could continue to withhold cash benefits from nonexempted immigrants even after this 5-year period; P.L. 104–193, Title I, section 402(a)(1)(B)(ii) and Title IV, sections 401–403, 411–412.

55. States largely controlled the manner in which immigrants who arrived before 1996 were covered by means-tested programs. Immigrants, therefore, remained eligible for some benefits

even within 5 years of arrival in states like California and in New York City.

56. Exceptions apply to programs such as emergency medical assistance. The practice of "deeming" originated in 1980 with Supplemental Security Income benefits. Deeming, as a means of limiting access to welfare, was extended to programs such as AFDC before being incorporated into Personal Responsibility Act in 1996. George J. Borjas, *Heaven's Door: Immigration Policy and The American Economy* (Princeton, NJ: Princeton University Press, 1999), 119.

57. *Immigrant Policy News* 3 (August 1996): 1; Wendell Primus, "Immigration Provisions in the New Welfare Law," *Focus* 18 (Fall/Winter 1996–1997): 14–18; R.Y. Kim, "Welfare Reform and 'Ineligibles': Issue of Constitutionality and Recent Court Rulings," *Social Work* 46 (2001): 315.

58. Marsha Lillie-Blanton and Julie Hudman, "Untangling the Web: Race/Ethnicity, Immigration, and the Nation's Health," *American Journal of Public Health* 91 (2001): 1736–1738. Texas almost immediately implemented the PRWORA cutbacks without additional state compensation.

59. Dave Leshner, "Deadlock on Prop. 187 Has Backers, Governor Fuming," *Los Angeles Times*, 8 November 1997, p. 1; Patrick J. McDonnell, "Judge's Final Order Kills Key Points of Prop. 187," *Los Angeles Times*, 19 March 1998, p. 3; Patrick J. McDonnell and Ken Ellingwood, "Immigration—the Big Issue of '94—Disappears From '98 Debate," *Los Angeles Times*, 23 October 1998, p. 3; Patrick J. McDonnell, "Davis Won't Appeal Prop. 187 Ruling, Ending Court Battles," *Los Angeles Times*, 29 July 1999, p. 1; Evelyn Nieves, "California Class Off Effort to Carry Out Immigrant Measure," *New York Times*, 30 July 1999, p. 1.

60. Greg McDonald, "Dole Scorns 'Liberals' Over School Issue," *Houston Chronicle*, 25 September 1996, p. 13; Marc Lacey, "Immigration Debate About to Resurface," *Los Angeles Times*, 26 May 1996, p. 18.

61. McDonnell and Ellingwood, "Immigration"; McDonnell, "Davis Won't Appeal"; Elaine S. Povich, "Courting Hispanics," *Newsday*, 21 April 2002, p. 4.

62. Michael Katz, *In the Shadow of the Poorhouse: A Social History of Welfare in America* (New York: Basic Books, 1996), xi.

63. Congressional Record, Personal Responsibility and Work Act of 1995 Conference Report, Vol. 141, No. 206 (21 December 1995): S19098, S19089.

64. Eric Schmitt, "GOP Seems Ready

- to Drop Political Fight," *New York Times*, 18 September 1996, p. 6.
65. Marc Lacey and Patrick J. McDonnell, "House Votes to OK Bans on Illegal Immigrant Schooling," *Los Angeles Times*, 21 March 1996, p. 1.
 66. Ibid. See also Marc Lacey, "Immigration Debate About to Resurface," *Los Angeles Times*, 26 May 1996, p. 18.
 67. Schmitt, "GOP Seems Ready."
 68. McDonald, "Dole Scorns 'Liberals' Over School Issue."
 69. Marc Lacey, "Toned Down Bill on Immigration Passes in House," *Los Angeles Times*, 29 September 1996, p. 12; "Non-Yankees Go Home: That's the Message of the Punishing New Immigration and Welfare Reform Laws," *Newsday*, 2 October 1996, p. 36.
 70. The final legislation denied refugees the right to counsel, raised the income requirements of people seeking to sponsor immigrants to 25% over the poverty level, and doubled the size of the Border Patrol; McDonald, "Dole Scorns 'Liberals' Over School Issue."
 71. Lacey, "Toned Down Bill"; "Non-Yankees Go Home."
 72. James Flanigan, "New Bill on Immigration is Borderline at Best," *Los Angeles Times*, 29 September 1996, p. 1.
 73. Even illegal immigrants, though formally excluded, have a role and function within the US economy, from the laundry industry in Chicago to agriculture in the West and Southwest. Louis Uchitelle, "INS Is Looking the Other Way as Illegal Immigrants Fill Jobs," *New York Times*, 9 March 2000, p. 1; Mark Bixler, "Immigration Deal Could Bolster Unions; Many Illegals Who Want to Join Labor Organizations Fear Deportation," *Atlanta Journal and Constitution*, 2 September 2001, p. 2; Christopher Parks and Henry Tricks, "Illicit Angels of America's Economic Miracle," *London Financial Times*, 23 February 2000, p. 10; Michael Riley, "Increase in Immigration Arrests Leaves Town's Workforce Depleted," *Denver Post*, 14 April 2002, p. 18.
 74. Mae Ngai, "Legacies of Exclusion: Illegal Chinese Immigration During the Cold War Years," *Journal of American Ethnic History* 18 (Fall 1998): 3–35; Mae Ngai, "The Strange Career of the Illegal Alien: Immigration Restriction and Deportation Policy in the United States, 1921–1965," *Law and History Review* 21 (Spring 2003): 69–108; Natalia Molina, *Contested Bodies and Cultures: The Politics of Public Health and Race Within Mexican, Japanese, and Chinese Communities in Los Angeles, 1879–1939* [PhD Dissertation] (Ann Arbor: University of Michigan, 2000); Emily Abel, "From Exclusion to Expulsion."
 75. Bill McAllister, "Immigration Law Unlikely to Soften; Mexican Workers' Status Can't Change for Safety Reasons, Tancred Assents," *Denver Post*, 26 September 2001, p. 1; Cindy Rodriguez, "In the Week of Attacks, Proposals to Toughen Laws Are Expected," *Boston Globe*, 19 September 2001, p. 26.
 76. Robert Pear, "Bill on Border Security and Immigration Passes in House," *New York Times*, 9 May 2002, p. 34; Diana Jean Schemo, "Officials to Speed Start of New Student Visa Tracking System," *New York Times*, 11 May 2002, p. 12. The effects of September 11th may be further exacerbated by commentaries such as Pat Buchanan's *Death of the West: How Dying Populations and Immigrant Invasions Imperil Our Country and Civilization* (New York: St. Martin's Press, 2002).
 77. Patty Reinert, "Border Fix Won't Be Quick," *Houston Chronicle*, 27 March 2002, p. 3; Elisabeth Bumiller, "White House Announces Security Pact with Mexico," *New York Times*, 22 March 2002, p. 18; Carla Baranaukas, "Bush Signs Border-Security Measure," *New York Times*, 15 May 2002, p. 20.
 78. Peter Brimelow, "Time for a Change? Enough! America Is Drowning in a Sea of Immigrants," *Atlanta Journal and Constitution*, 30 April 1995, p. 1G.
 79. "Non-Yankees Go Home."
 80. Robert Pear, "House Passes Immigrant Bill to Aid Mexico," *New York Times*, 13 March 2002, p. 1; Robert Pear, "Immigrant Bill," *New York Times*, 17 March 2002, p. 2; Mark Bixler, "House Votes to Ease Immigration Rule," *Atlanta Journal and Constitution*, 13 March 2002, p. 3A.
 81. Associated Press, "Border Security Bill Sent to Bush," *New York Times*, 9 May 2002; Pear, "Bill on Border Security"; Pear, "House Passes Immigrant Bill."
 82. The bill is still in the Senate Judiciary Committee.
 83. David Abraham, "American Jobs but not the American Dream," *New York Times*, 9 January 2004, p. A19.
 84. "AFL-CIO Calls for New Direction in US Immigration Policy to Protect Workers, Hold Employers Accountable for Exploitative Working Conditions," February 16, 2000, available at www.aflcio.org/mediacenter/prspmt/pr02162000d.cfm, accessed January 16, 2004.
 85. Michael McGovern, *Labor Lyrics, and Other Poems* (Youngstown, Ohio, 1899), 27–28, quoted in Montgomery, *Fall of the House of Labor*, 25.
 86. Edith Abbott, "The Wages of Unskilled Labor in the United States," *Journal of Political Economy* 13 (1905): 324.
 87. In its 1886 ruling in the *Wabash* case, the Supreme Court recognized corporations as "persons" protected under the 14th Amendment to the Constitution. The ruling also prohibited states from regulating interstate commerce, giving sole regulatory authority to the federal government.
 88. Steven Greenhouse, "In US Unions, Mexico Finds an Unlikely Ally on Immigration," *New York Times*, 19 July 2001, p. A1.
 89. Eric Brazil, "Unions Widen Their World; Ex-Foes of Undocumented Workers Now See Them as Membership Targets," *San Francisco Chronicle*, 2 September 2001, p. W1.
 90. Lindquist, "In Search of Amnesty."
 91. It is not clear how labor will view foreign workers who are not either legal or illegal immigrants. Two federal programs from the early 1990s helped to expand the labor force without visibly expanding the immigrant population. The H1-B visa system was established in 1990 to permit businesses to sponsor highly skilled foreign workers if domestic workers were not available. H1-B visa holders are not technically immigrants, but most are likely to remain permanently. In a declining economy, these workers are increasingly viewed as "serfs" who take American jobs and drive down wages, and measures have been introduced to reduce drastically the number of H1-B visas the Immigration and Naturalization Service may issue. Alan B. Krueger, "Work Visas Are Allowing Washington to Sidestep Immigration Reform," *New York Times*, 25 May 2000, p. C2; Tom Condon, "Vulnerable Workers Become Victims of Corporate Greed," *Hartford Courant*, 13 October 2002, p. B1; Allan Masri, "No Shortage of Trained American Engineers," *Los Angeles Times*, 8 February 2003, p. 26; Diane E. Lewis, "Congress Asked to Review IT Field; Engineers Group Upset Over H1-B Visas, Job Losses," *Boston Globe*, 23 July 2002, p. D2; Pamela R. Winnick, "Visa Versa," *Pittsburgh Post-Gazette*, 3 May 2002, p. C10. Other individuals are allowed to work in the United States if granted "temporary protected status," or TPS. US Citizenship and Immigration Services, "What Is Temporary Protected Status," available at <http://uscis.gov/graphics/howdoi/tps.htm>, accessed January 16, 2004.
 92. Brazil, "Unions Widen Their World."
 93. Lindquist, "In Search of Amnesty."
 94. James B. Parks, "Recognizing Our Common Bonds," updated April 12, 2002, available at <http://www.aflcio.org/aboutaflcio/magazine/commonbonds.cfm>, accessed January 14, 2004.
 95. Borjas, *Heaven's Door*, xiv–xvi, 5, 8–16, 62–104.
 96. Congressional Record, House of Representatives, May 16, 2002, p. H2515–H2590; Robert Pear, "GOP Dispute Delays Vote on Welfare Bill," *New York Times*, 16 May 2002, A20. A Democratic substitute bill as well as planned amendments that were overruled would have restored benefits to legal immigrants along with providing an additional \$5 billion for child care, given the increased work requirements; Congressional Record, p. H2559. See also Robert Pear, "House Passes a Welfare Bill With Stricter Rules on Work," *New York Times*, 17 May 2002, A1, and Hillary Rodham Clinton, Letter to the Editor, *New York Times*, 16 May 2002, A24.
 97. Daniel Altman, "Welfare Bill's Tougher Love May Backfire," *New York Times*, 19 May 2002, p. 4.
 98. Robert Pear, "Federal Welfare Roll Shrinks, but Drop Is Smallest Since '94," *New York Times*, 21 May 2002, p. A12.
 99. Congressional Record, May 16, 2002, p. H2515, and May 16, 2002, p. H2540 and H2545. The bill's detractors advanced a different vision of society and repeatedly argued that the bill failed to lift people out of poverty. They underscored that reducing the welfare rolls and combating poverty were hardly equivalent, thereby questioning the very terms of welfare reform's success. See, for example, the pointed remarks of Representative Lynn Woolsey, a Democrat from California and former welfare recipient, as well as those of Jose Serrano, a New York Democrat; Congressional Record, May 16, 2002, p. H2538. See also the editorial of Douglass McKinnon, former recipient of welfare and former press secretary to former senator Bob Dole, "The Welfare Washington Doesn't Know," *New York Times*, 21 May 2002, p. A21.
 100. Ann McFeatters, "Success Stories Highlight New Welfare Push; Welfare-to-Work Law Hailed at White House," *Pittsburgh Post-Gazette*, 15 January 2003, p. A10; Editorial, "Unworkable Welfare," *Boston Globe*, 16 January 2003, p. A10.
 101. Senator Max Baucus, "What's the Next Phase of Welfare Reform?" *Roll Call*, 8 December 2003 (Policy Briefings Section).